IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.679 OF 2006
Along with
Civil Application No.947 of 2006

Shri Ramchandra Maruti Koli, .. Appellant.
(Orig.Deft.)

Vs

Shri Appasaheb Bhiru Kanap, .. Respondent.
(Orig.Plff)

Mr R.S.Apte, for the appellant.
Mr.T.S.Ingale, for the respondent.

CORAM : D.B.BHOSALE,J.
DATE : 29.01.2007.

PC:

1. Heard the learned counsel for the parties.

2. The appellant-defendant has impugned the concurrent judgments of the courts below by which the suit filed by the respondent-plaintiff for redemption of mortgage, stands decreed. Mr Apte, learned counsel for the appellant, submitted that the intention of the parties will have to be gathered from the recitals of the document dated 10.6.1969, which clearly indicate that the parties intended to execute a sale out and out. In support of the submission he took me through the contents of the document and particularly the later part of the document to submit that it was a document with

condition to repurchase. I perused the document as also the other material placed before me. It is clear not only from the contents of the document, but as rightly observed by the courts below, several other circumstances clearly indicate the intention of the parties that it was a mortgage and not a sale with condition to repurchase, as claimed by the appellant. The appeal court in paragraphs 13 and 14 of the judgment has indicated all the circumstances, which clearly show that the transaction was a mortgage by conditional sale. I find absolutely no reason to interfere with the findings of facts recorded by the courts below. In the circumstances, this appeal stands dismissed. As a consequence thereof, the civil application is disposed of.

(D.B.BHOSALE,J.)